

**BEFORE THE
COMMUNICATIONS SUBCOMMITTEE
OF THE
SENATE COMMERCE COMMITTEE

SENATOR CONRAD BURNS, CHAIRMAN**

**TESTIMONY OF
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INTRODUCTION

I am Dr. John S. Fitzpatrick. I reside at 218 8th Ave., Helena, Montana, 59601. I am Executive Director of Mergers and Acquisitions for Touch America, Inc.

Touch America, Inc. is headquartered in Butte, Montana. It is a wholly owned telecommunications subsidiary of the Montana Power Company. Touch America, Inc. operates one of the largest fiber optic networks in the country with 12,000 route miles of fiber currently completed, a figure that is projected to increase to 26,000 miles by the close of 2001. Much of our network is located in sparsely populated, rural areas of the Rocky Mountain and Great Plains states. Exhibit 1 shows the company's fiber routes as they currently exist and how they are projected to grow during the next several months.

Touch America's principal lines of business include:

1. Serving as a wholesale provider of transport services to other telecommunication companies from small rural cooperatives to the largest, investor owned interexchange carriers.
2. Providing retail telecommunications services to residential and commercial customers including:
 - a. Long Distance
 - b. Private Line ATM, Frame Relay
 - c. Internet
 - d. Calling Card, and
 - e. 800/888 inbound services
3. Serving as a supplier of telecommunication equipment for commercial applications (e.g. PBX and Centrex Systems) in several Northwestern States.
4. Providing fiber optic construction services for other telecommunication companies. Touch America, Inc. is currently overseeing the construction of six major fiber routes for AT&T.
5. The company recently started to provide local access services as a competitive Local Exchange Carrier in the state of Montana. We are currently negotiating interconnect agreement in the remaining 13 US West states.
6. Touch America is currently installing LMDS networks in 25 cities in the Northwest and upper Midwest. The first of those installations in Billings, Montana was the first commercial use of this technology. Currently this service is in operation in

Billings and Butte Montana; Walla Walla, Washington and Casper, Wyoming.

7. Touch America is aggressively working to deploy PCS service through a variety of business arrangements.

Notwithstanding its location in the rural West, Touch America, Inc. has built a successful telecommunications business. Current annual revenues are projected to exceed \$100 million in 2000 and the company is profitable. Touch America believes its success is directly related to its ability:

1. To efficiently construct low cost telecommunications network.
2. To offer its customers a quality telecommunications product at a competitive price.
3. To establish cooperative supply and marketing relationships with other carriers for the mutual benefit of the carriers and their customers.

During 1999, Touch America, decided to increase its focus on supplying retail telecommunication services and, to that end, has entered into a series of strategic partnerships, which will greatly enhance the delivery of the company's services particularly in rural areas. Those partnerships include:

1. Touch America Colorado, a joint venture with New Century Energies to provide telecommunication services in the Denver Metropolitan Area.
2. TW-Wireless, a joint venture with US West Wireless to provide PCS services in 22 BTA's extending from the crest of the Cascade Mountains in the State of Washington to Western Minnesota, including the states of Idaho, Montana, Wyoming, North and South Dakota.
3. Taking an equity position in Wireless North, LLC, a PCS company created by a consortium of Minnesota Telephone Cooperatives and small Independent Telecommunication companies. Wireless North's license areas are in the Dakotas, rural western Wisconsin, and Minnesota outside the Twin Cities.
4. Iowa Telecommunication Services (ITS), a joint venture involving Touch America, Inc. and Iowa Network Services, another consortium of cooperatives and Independent Telco's. It is purchasing GTE's telephone exchanges in rural Iowa.
5. MEDNET, a partnership between Touch America and St. Patrick's Hospital in Missoula, Montana that is providing telecommunications equipment and long distance and private line services to hospitals and clinics in western Montana.

On Thursday, March 16, 2000, Touch America, Inc. announced plans to acquire the long distance assets of Qwest Communications in the 14 state region served by US West. Qwest is to divesting itself of these assets as a condition to its proposed merger with US West. For Touch America, Inc., the proposed acquisition will greatly accelerate the growth of the company, and it will make us one of the larger suppliers of telecommunication services in the rural West.

SECTION 706

Section 706 of the Telecommunications Act of 1996 encourages

“The deployment on a reasonable and timely basis of advanced telecommunications capability to all Americans...”

Where, advanced telecommunication capability is defined as

“A high-speed, switched broadhead telecommunications capability that enables users to originate and receive high quality voice, data, graphics, and video telecommunication, using any technology.”

Section 706 provides a great opportunity, as well as a great challenge to America’s telecommunications industry. At Touch America, the emphasis is on the opportunity provided by Section 706, not the problems or challenges that may be encountered in providing advanced telecommunications services to all American’s. If Congress will stay the course, and allow competition to develop and flourish within the telecommunication industry, companies like Touch America will help the nation achieve the goal set forth in Section 706.

RESTRUCTURING OF THE AMERICAN TELECOMMUNICATIONS INDUSTRY

The divestiture of AT&T in 1982 completely restructured the American telecommunications industry. The responsibility for providing local access service was shifted to seven Regional Bell Operating Companies (RBOC) and the long distance business was opened to competition which, ultimately, provided consumers with more product choices and lower prices.

More recently the industry has continued to restructure itself with the RBOC’s entering into mergers with each other and with Interexchange companies. At the same time, the RBOS’s have divested themselves of large numbers of rural telephone exchanges in an effort to consolidate operations and focus on the large urban markets. For example, during the past five years, US West has offered 70 of its Montana rural exchanges for sale and has undertaken similar initiatives in the other states in its region. In late 1998, GTE announced a repositioning effort that included the sale of about 1.5 million access lines in the rural areas of 13 western,

mid-western, and southern states.

At first blush, these actions might be misconstrued as reducing telecommunication opportunities for rural residents and businesses. Actually, the opposite is the case, for two major reasons.

1. In many cases, the RBOC's had neglected the rural exchanges being sold. Equipment was obsolete and service levels poor. The rural exchanges were seen as an obligation rather than as an opportunity.
2. While the RBOC's selling the exchanges did not want to be in those areas, the sale of these exchanges provided real growth opportunities for new companies interested in and committed to serving rural customers. These companies have not only purchased the exchanges, but have upgraded them, improved service levels, and increased product/service offerings to their customers.

Examples of this commitment to rural customers include:

1. In Montana, the Blackfoot Telephone Cooperative acquired nine exchanges totaling 7,000 access lines from US West in 1994. Since then, Blackfoot has invested \$17 million upgrading switching equipment, installing fiber optics, and improving service offerings. Five years ago, areas that did not have access to 911, custom calling features, voice mail, ISDN, DSL, or even simple dial-up access Internet, have them today.
2. The Montana Advanced Information Network (MAIN), created by the state's small independent companies and cooperatives, provides fiber optic connectivity and transport throughout Montana's rural areas. Vison Net, Mid-Rivers and Range Cooperatives who use MAIN's Network provide interactive video services to around 90 rural sites. (See Exhibit 2)
3. Mid-Rivers Telephone Cooperative based in Circle Montana plans to deploy DSL services in right exchanges during 2000, including Circle, Jordan, Baker, and Ekalaka, Montana. These communities are located in some of the most sparsely populated territory in the continental United States. In contrast, US West currently offers DSL in one Montana community, Helena, the state capital and the Montana headquarters for US West.
4. MEANS, standing for Minnesota Equal Access Network, recently renamed Onvoy, was formed by a consortium of small independent telephone companies and cooperatives to offer equal access to rural telecommunications consumers. The company provides long distance, Internet service on a wholesale and retail basis throughout rural Minnesota.

5. Iowa Network Services (INS) another consortium of rural Telco's and Coops. It began operation as an equal access provider and is now one of the largest suppliers of Internet Services in Iowa. Partnered with Touch America is purchasing GTE's rural telephone exchanges totaling over 280,000 access lines, through a new company, Iowa Telecommunication Services (ITS). ITS is already offering Internet services in communities where it was not available through GTE.

THE DIGITAL DIVIDE

The concept "Digital Divide" refers to an alleged dividing line between that part of the population which has access to advanced telecommunication services, principally high speed Internet, and those who lack such access. The concept frequently emerges in discussions of economic development and it is typically tied to rural versus urban geography, with the distinct implication that rural areas are disadvantaged relative to the urban counterpoints because they do not or will not have access to advanced services.

Touch America, Inc. would like to offer these thoughts about the Digital Divide:

1. While broadband communication systems reach back over two decades, it has been only recently that the technology has advanced to the point that it can be employed at the small business or individual consumer level. At that, the price is still high when compared to services provided over conventional copper wireline facilities. As the demand for advanced telecommunication services accelerates and, if competition is allowed to continue, prices will decrease and access to, and the use of, such services will increase.

Physically, the largest impediment to the provision of advanced telecommunication services is the "last mile connection" between the consumer and the telecom network. There are several promising technological developments, including hybrid co-axial cable/fiber systems, microwave wireless systems, including PCS and LMDS applications, and, ultimately, satellite systems that can close the last mile gap.

On this issue, a certain amount of patience is required. Remember that it took close to fifty years after its invention before conventional telephone technology became a staple in America's businesses and homes. Public policy has not failed nor has America's telecommunication industry, because high speed Internet access is not linked to the majority of the nations computers, four years after the passage of the Telecommunication Act.

2. While this company is fundamentally suspect of the concept of a Digital Divide, if such a

phenomenon exists, we see it primarily as a cultural or socioeconomic issue rather than one based in geography. Such a divide ultimately will be between those who want advanced telecommunication services and those who do not; those who have the background and experience to use such services and those who do not. In the near term, prices may be somewhat of an issue, but telecommunication services are becoming increasingly “commoditized”. Prices in real terms are dropping, and consumers will have access to advanced services at reasonable rates. That has already occurred in the long distance business and the Internet is not far behind.

In public policy discussions about advanced telecommunication services, there appears to be an assumption that a large, unserved demand exists for these services.

I recently visited with the manager of the Mid-Rivers Coop, the firm that, as previously mentioned, plans to offer DSL services in eight rural Montana communities this year. He indicated that the company’s DSL investment plans were somewhat of a leap-of-faith in as much, it did not have a clear picture of the degree of customer demand, in the short term. At Touch America we don’t see “unserved telecommunication needs” so much as an “emerging demand” that will grow as businesses and individuals become more skilled with and experience the utility of advanced services.

The phrase from the movie “Field of Dreams”, “if you build it they will come” may be applicable to telecommunication services though certain investors in failed technologies might question that premise. But, from a public policy perspective, it is equally important to ask over what time period and at what cost. Again, reference to a more practical perspective and patience is in order. There is not a uniform need in this society for all entities to receive and transmit data at gigabit speeds. The telecommunications needs of the country are evolving as is the industry itself. And, while there are some dislocations in the marketplace, they are neither large, nor fatal, and they most certainly do not require a major adjustment in public policy at this time.

3. Telecommunication services are a tool not a panacea. The immediate presence or absence of advanced services is not going to make or break the economy of rural America. Economic development or decline is rarely reducible to a single variable. The invention of the telephone, which was readily adopted by rural residents neither precipitated nor prevented the decline of the family farm. Advanced telecommunication services are not a miracle drug for rural economies. The rural economy is primarily a resource extractive economy based on agriculture, timber, and/or mineral production and the type of telecommunication services available does not change that fact. We readily

acknowledge that advanced telecommunication services can provide value to businesses, governmental institutions, schools, and individuals and, further, that insuring widespread access to such services is a desirable goal of public policy. To be effective, public policy needs to be based on a realistic understanding of its costs and benefits and not move forward based upon hopes and promises.

4. The Digital Divide is more of a political construct than a real a telecommunications phenomenon. It has been seized upon and is being used as a springboard by governmental agencies seeking to create a role for themselves within the telecommunications industry and by certain groups and companies seeking to undermine the requirements of Section 271 of the Telecommunication Act.

There seems to be no shortage public sector task forces examining the feasibility of extending the “benefits of advanced telecommunication services to the underserved” which usually means small cities and towns in rural areas.

As an example, the Bonneville Power Administration has announced an initiative to add fiber optic cable to its electric transmission system ostensibly to help provide advanced telecommunication, services to units of local government, schools, and non-profit institutions in its service territory. BPA’s transmission lines, like those of investor owned electric utilities, may run through the countryside, but they connect cities because that’s where the electric loads exist. BPA’s fiber optic plan of action, for itself, does little more than duplicate, the telecommunication networks of companies like Sprint, AT&T, and Touch America.

BPA is not currently preparing to become a retail telecommunication supplier. That likely would be done by the Public Utility Districts and REA Coop’s in direct competition with the rural telephone cooperatives, small independents, and other investor owned telecommunication companies.

The program the BPA is developing leverages the Digital Divide as a social program in an effort to support the BPA’s expansion into the competitive telecommunications markets. Oddly enough while the BPA touts itself as the savior of rural America, its current fiber optic plans call for construction of fiber facilities along the I-5 corridor in some of the most heavily populated areas of the Northwest.

Another Trojan Horse in the Digital Divide discussion is the notion that the RBOC’s need relief from the requirements of Section 271 to help provide advanced telecommunication services. Actually, if the RBOC’s want to provide advanced services like DSL, they simply need to install the equipment on their existing networks. They do not need to be in the long distance business to

accomplish that goal.

CLOSING

The divestiture of AT&T started a process of both reorganizing America's telecommunications industry and opening it to competition, the benefits of which have been realized by virtually all citizens through improved communication services and/or lower prices. The Telecommunication Act of 1996 continued public policy emphasis on enhancing competition with the industry. Telecommunication companies are moving aggressively to upgrade their networks while improving and expanding service offerings for consumers. The goal of Section 706 is being met. It won't happen instantly, but it will happen provided competition is allowed to flourish.